

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAYMES ARTHUR GALLAGHER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C22-5434 BHS

ORDER

This matter comes before the Court on Petitioner Jaymes Arthur Gallagher's Motion for Extension of Time and for Appointment of Counsel, Dkt. 7.

Gallagher, a federal prisoner proceeding pro se, seeks habeas corpus relief pursuant to 28 U.S.C. § 2255 and challenges his 2020 conviction on one count of Possession of a Firearm in Furtherance of a Drug Trafficking Crime under 18 U.S.C. § 924(c)(1)(A),¹ to which he pled guilty. Dkt. 1; *see also United States v. Gallagher*, 19-cr-5389 BHS, Dkt. 65.

¹ Gallagher also pled guilty to one count of Conspiracy to Distribute Controlled Substances, but he challenges only his firearm conviction. *See* Dkt. 1.

1 As to Gallagher's request for appointment of counsel, no constitutional right to
2 counsel exists for an indigent plaintiff in a civil case unless the plaintiff may lose his
3 physical liberty if he loses the litigation. *See Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18,
4 25 (1981). In relation to a § 2255 petition, the court may appoint counsel. 28 U.S.C.
5 § 2255(g). Appointment of counsel is appropriate for "any financially eligible person
6 who . . . is seeking relief under [§ 2255]" if "the court determines that the interests of
7 justice" require such appointment. 28 U.S.C. § 3006A(a)(2)(B).

8 The Court concludes that justice does not require the appointment of counsel.
9 Gallagher asserts a straightforward argument that his conviction under 18 U.S.C.
10 § 924(c)(1)(A) should be vacated because he did not use his firearms in connection with
11 the distribution of controlled substances. *See* Dkt. 1. He has not established that counsel
12 is necessary to assist him in advancing this argument or for any other purpose. The Court
13 therefore **DENIES** Gallagher's Motion for Appointment of Counsel.

14 Gallagher's Motion for Extension of Time, however, is **GRANTED**. Gallagher's
15 reply to the Government's response to his Motion to Vacate shall be due no later than
16 **November 4, 2022**. The Clerk shall renote the Motion to Vacate, Dkt. 1, for
17 consideration on the Court's November 4, 2022 calendar.

18 **IT IS SO ORDERED.**

19 Dated this 4th day of October, 2022.

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BENJAMIN H. SETTLE
United States District Judge